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SEMINAR ON REGULATION OF CANADIAN FINANCIAL INSTITUTIONS

MATERIALS FOR SPRING TERM 1990

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Regulation of Financial Institutions
Spring 1990

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SELECTED BIBLIOGRAPHY

A TEXTBOOKS AND MONOGRAPHS:

1 Bank of Nova Scotia, A Study of Foreign Banking in Canada (May 1974)

2 Beaver, Financial Reporting: An Accounting Revolution (Contemporary Topics in Accounting Services, 1981)

3 Benson, W., Business Methods of Canadian Trust Companies, Toronto, 1962

4 Benson & Douglas, Federal Banking Laws (U.S.)

5 H.H. Binhammer & Jane Williams, Deposit Taking Institutions: Innovation and the Process of Change, ECC 1976

6 *Douglas Caddy, Legislative Trends in Insurance Legislation, Texas A & M University Press, 1986

7 *Canadian Institute of Chartered Accountants, Report of Commission to Study Public's Expectations of Auditors, (May 1988)

8 *Cooper, Kenny & Fraser, Banking Deregulation and the New Competition in Financial Services (1984) Ballinger Publ., Cambridge, Mass.
KF1966

9 Courchene, Todd & Schwartz, Ontario: Proposals for the Canadian Securities Industry, C.D. Howe Institute, Nov. 1986

10 *Economic Council of Canada, Competition and Solvency: A Framework for Financial Regulation, 1986 (Ottawa, Ministry of Supply & Services)

11 *Efficiency and Regulation: A Study of Deposit Institutions, Economic Council of Canada (1976) (Ottawa: Ministry of Supply Services)
HG 2704 E26

12 *Fischel, Rosenfield & Stillman, The Regulation of Banks and Bank Holding Companies, LEP, Aug. 1986.

13 *Goode, R.M. (ed.), Conflicts of Interest in the Changing Financial World (Inst. of Bankers 1987).

14 *Lomax, David F., London Markets after the Financial Services Act (1987) Butterworths, London

15 Metcalfe, H.B.W., Foreign Banks in Canada: Strategic Directions towards 1990 (1986)

16 *Neate, F.W. (ed.), The Developing Global Securities Market, Graham & Trotman, London 1987

17 *Neufeld, Ed, The History of Canadian Financial Institutions, HG 185 C2 N48

18 *Pollard, Passaic, Ellis and Daly, Banking Law in the United States (1988, Butterworth)

19 *Roy & Bernier, Re-regulation of Canadian Financial Institutions, CLHIA, Feb. 1988

20 Shaw, David, and Ross Archibald (1977), The Canadian Securities Market: A Framework and a Plan, (Toronto: The T.S.E.) HG5152 S45 (No. 8)

21 *Shearer, Chant & Bond, The Economics of the Canadian Financial System, 2nd edition, Prentice Hall (1984)

22 Todd, John D. (1983), Price Competition in the Canadian Securities Industry: A Test Case of Deregulation, (Toronto: Ont. Economic Council) HG 5158 T64

23 *Ziegel, Waverman & Conklin, Canadian Financial Institutions: Changing the Regulatory Environment (Ont. Economic Council 1985).

---

* means item kept on reserve in the Faculty of Law Library

B REPORTS AND LEGISLATION

0 *British Columbia, Min. of Finance & Corporate Relations, Financial Institutions Act: Major Policy Proposals (Oct. 20, 1988)

1 Canada, Bank Act, S.C. 1980, c. B-1, as am.

2 Canada, Trust Companies Act, RSC c. T-16, as am. Office Consolidation, July 1983

3 Canada, Loan Companies Act, RSC c. L-12 as am. July 1983 Consolidation

4 *Canada, An Act to amend the Loan Companies Act, the Trust Companies Act, the Bank Act and the Quebec Savings Banks Act in respect of certain regulatory matters
"Bill C-103"

5 Canada, Foreign Insurance Companies Act, RSC 1970, c. I-16, as am.

6 *Canada, An Act to amend the Canadian and British Insurance Companies Act, the Foreign Insurance Companies Act and the Winding-up Act
"Bill C-123"

7 Canada, Canada Deposit Insurance Corporation Act, RSC c. C-3, as am.

8 *Canada, Financial Institutions and Deposit Insurance System Amendment Act, 35-36 El.3 II, c. 23, June 30, 1987 (Bill 42)
Bill C-86 "CDIC Amendment Act"

9 Canada, Statute Law (Financial Institutions) Amendment Act 1987 (No. 1), 35-36 El.3 II, 1987-88, June 30, 1987
"Bill C-56"

10 Canada, Bill C-81, Statute Law (Financial Institutions) Amendment Act, 1987, (No. 2), 1R, June 30, 1987
"Bill C-81"

11 Ontario, Insurance Act, RSO 1980, c. 218 as am. and Regs., Office Consolidation, Feb. 1985

12 *Ontario, An Act to amend the Insurance Act..... "Bill 108"

13 *Ontario, Loan and Trust Corporation Act, 1987, Stat. Ont. 1987, c. 33
"Bill 116"

14 *A Regulatory Framework for Entry Into and Ownership of the Ontario Securities Industry, Ontario Securities Commission (February, 1985)
"Dey Report", "OSC Ownership Report"

15 *Canadian Financial Institutions, House of Commons, Standing Committee on Finance, Trade and Economic Affairs (November, 1985)
"Blenkarn Report"

16 *Fifth Report, House of Commons, Standing Committee on Finance, Trade and Economic Affairs (June, 1986)
"2nd Blenkarn Report"

17 *Deposit Insurance, Tenth Report, Standing Senate Committee on Banking Trade and Commerce (December, 1985)
"Senate Deposit Insurance Report"

18 Discussion Paper on Revision of the Trust Companies Act and the Loan Companies Act, Department of Insurance, Canada (July, 1982)
"Federal Trust and Loan Discussion Paper"

19 Draft Amendment to Regulation 910 Regarding Entry Into and Ownership of the Ontario Securities Industry, Ontario Securities Commission (September, 1985)
"Draft Securities Industry Regulations"

20 *Interim Report, Ontario Task Force on Financial Institutions (Dec. 1984)
"Dupre Interim Report"

21 *Final Report, Ontario Task Force on Financial Institutions (Dec. 1985)
"Dupre Final Report"

22 *Final Report, Working Committee on Canada Deposit Insurance Corporation (April, 1985)
"Wyman Report"

23 *Ministry of Financial Institutions, Ontario, MFI Information (Undated but published in 1987).

24 *Proposed Revision and Consolidation of the Trust Companies Act and the Loan Companies Act, Department of Insurance, Canada (July, 1982)
"Draft Federal Trust and Loan Legislation"

25 *New Directions for the Financial Sector, Canada, Min. of State for Finance, Dec. 18, 1986
"Blue Paper"

26 Report on the Implications for the Canadian Capital Markets of the Provision by Financial Institutions of Access to Discount Brokerage Services, Ontario Securities Commission (October, 1983)
"Green Line Report"

27 *The Regulation of Canadian Financial Institutions: Proposals for Discussion, Department of Finance (Canada) (April, 1985)
"Green Paper"

28 *The Regulation of Financial Institutions: Proposals for Discussion, Technical Supplement, Department of Finance (Canada) (June, 1985)
"Technical Supplement"

29 *Towards a More Competitive Financial Environment, Sixteenth Report, Standing Senate Committee on Banking, Trade and Commerce (May 1986)
"Senate Report"

30 *Report of the Royal Commission on Corporate Concentration (1978)
HD 2809 C36

31 *Moore Committee Report (1970)
HG 5152 C6

32 *White Paper of the Minister of Finance on the Proposed Revision of the Bank Act (1976)
KF 974 C32

33 *Morrison Report on trust companies in Ontario (June 1983)
KF 744 M67

34 *Annual Report, Canadian Deposit Insurance Corporation (1985)

35 *Proposals for a Securities Market Law for Canada, (3 vols.), Ministry of Supply & Services (Canada) (1979)
KF 1070 C3 "Securities Market Law"

36 *"Regulation and Ownership of Market Intermediaries in Canada" (Submission to the OSC), Joint Securities Industry Committee (1984)
KF 1071 J65

37 *Report, Royal Commission on Banking and Finance (1964)
(Ottawa: Queen's Printer)
HG 185A56C2 1962

38 *U.K., White Paper on Banking Supervision, Dec. 1985, H.M. Treasury, London, Eng.

39 Quebec, An Act respecting Trust Companies and Savings Companies, S.Q. 1987, c.95 ("Bill 74")

40 British Columbia, Financial Institutions Act ("Bill 51")